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7 IN RE GOOGLE PLAY STORE
8 ANTITRUST LITIGATION
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MDL Case No. 21-md-02981-JD
Member Case No. 20-cv-05671-JD

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28 **ORDER RE COURT-APPOINTMENT
OF EXPERT WITNESS**

To assist the Court in evaluating whether the joint request to modify the injunction entered in *Epic Games, Inc. v. Google LLC et al.*, Case No. 20-cv-05671-JD (*Epic I*) is consistent with the jury verdict and the public interest in free and unfettered competition, Professor Nancy L. Rose, Charles P. Kindleberger Professor of Applied Economics, MIT Department of Economics, is appointed as an expert witness pursuant to Federal Rule of Evidence 706. Professor Rose has accepted the appointment. The Court considered other candidates, including those identified by the parties. Several candidates were barred from appointment by a claim of conflicts that the parties were unwilling to waive.

The appointment is governed by these terms:

- 1) Professor Rose will independently evaluate the economic and antitrust effects of the proposed modifications vis-à-vis the jury verdict and the permanent injunction entered by the Court, and opine on the testimony and opinions provided by Dr. Douglas Bernheim and others with respect to the proposed modifications.
- 2) Professor Rose will have full access to all materials filed on the ECF docket, including sealed materials. Professor Rose and any person who assists her will keep all sealed materials strictly confidential, and will destroy all sealed materials at the conclusion of this appointment. At the Court's direction, the parties will promptly provide to

1 Professor Rose all docket materials she requests in any electronic or hardcopy format
2 she specifies. The parties will do the same for all materials obtained during discovery,
3 including deposition transcripts, and any materials referred to in expert witness reports,
4 as Professor Rose requests.

5 3) Professor Rose will be permitted to question Dr. Bernheim and other witnesses during
6 the evidentiary hearing set for January 22, 2026. The Court will issue a separate order
7 on the procedures for the hearing. The parties will be permitted to question Professor
8 Rose, and respond to her opinions, as warranted.

9 4) No one affiliated with the parties or their counsel may have any communications
10 whatsoever with Professor Rose unless approved in advance by the Court. The Court
11 and chambers staff may communicate with Professor Rose on an in-camera basis at any
12 time.

13 5) Professor Rose may engage one person of her choosing to assist her in her work.
14 Professor Rose and her assistant will be compensated for their work at an hourly rate
15 commensurate with the rate billed by the parties' expert economists who testified at
16 trial. *See* FRE 706(c)(2). Professor Rose will provide the hourly rate(s) to the Court,
17 which will advise the parties. The parties will pay the compensation on a 50/50 basis.
18 The parties will also reimburse Professor Rose on a 50/50 basis for reasonable costs
19 and expenses incurred during the appointment, including without limitation travel,
20 lodging, administrative support, and the like. The parties will pay Professor Rose
21 directly within 15 days of receipt of each invoice.

22 **IT IS SO ORDERED.**

23 Dated: December 5, 2025



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25 JAMES DONATO
26 United States District Judge
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